



Snohomish County

PLANNING & DEVELOPMENT SERVICES

M/S #604

## SNOHOMISH COUNTY PLANNING COMMISSION

March 20, 2015

The Honorable John Lovick, County Executive  
County Administration Building  
M/S 407, 3000 Rockefeller Avenue  
Everett, WA 98201-4046

**SUBJECT:** Planning Commission recommendation addressing  
proposed development regulations regarding the  
Critical Area Regulations Review and Update.

Dear Executive Lovick:

Snohomish County is mandated by the Growth Management Act of Washington (GMA-RCW 36.70A) to review and update its comprehensive plan and development regulations according to a schedule established in RCW 36.70A.130(5) with the next deadline scheduled for June 30, 2015. This review and update includes the critical area regulations per RCW 36.70A.130(1)(c). Under the GMA, the periodic review or “update” means to review and make needed amendments to the comprehensive plan and development regulations to ensure internal consistency and compliance with the GMA.

Snohomish County critical areas regulations are contained in Title 30, chapters;

30.62A SCC - Wetlands and Fish & Wildlife Habitat Conservation Areas;

30.62B SCC - Geologic Hazard Areas;

30.62C SCC - Critical Aquifer Recharge Areas;

30.64 SCC - Groundwater Protection; and

30.65 SCC - Special Flood Hazard Areas

Many of the recommended amendments are technical corrections, providing consistent language between chapters and clarification. The following sections highlight some of the more substantive changes that are recommended in each chapter. The Planning Commission voted to recommend approval as proposed, however, there are several areas highlighted below which some of the Planning Commission members wanted to express concerns for Council to take into consideration.

## Chapter 30.62A SCC - Wetlands and Fish & Wildlife Habitat Conservation

### Submittal requirements – 30.62A.130(1)(f)

Reduce the distance required from a proposed project site to identify critical areas to the maximum buffer that could overlap onto a project site. The existing code requires applicants to identify critical areas out beyond the maximum buffers that could overlap onto a project site.

### Permanent identification and recording – 30.62A.160(3)

Currently, subdivisions occurring on rural designated lands are required to put all critical areas and buffers in separate tracts. The recommended change allows critical areas and buffers occurring on rural subdivisions to be protected in easements on the lots rather than in separate tracts which can be counted in the lot yield. Currently only subdivisions in urban areas are allowed to include critical areas and buffer as easements on building lots .

### Previously approved Critical Areas Site Plans – 30.62A.160(4)

This section allows for new development proposals that already have recorded Critical Areas Site Plans (CASP) to redevelop to higher intensities without changes in the protection recorded on the CASP.

### Wetland classification - 30.62A.230(2)

A revised wetland classification system was developed by the Department of Ecology in 2014. The rating system ranks wetlands based on their sensitivity to disturbance, rarity, values, and functions. The purpose of the update by Ecology was to incorporate new BAS.

*The Planning Commission recommends approval of the wetland classification system. The Planning Commission directed PDS to clarify that all buffer widths corresponded with the correct wetland type and to ensure that related buffers were not wider than are currently required.*

### Replacement ratios for temporary impacts to buffers and wetlands – 30.62A.320(3)(b) & 30.62A.340(4)(b)

Currently, impacts occurring in critical areas or buffers must replace the area of impact at replacement ratios ranging between 1 to 1 and 12 to 1, depending on the type of vegetation or wetland. It does not take into account minor impacts that can be easily or quickly mitigated. The change reduces the required impact replacement ratio to 1 to 1 for minor impacts that can be restored to pre-disturbance conditions within one year.

### Minor development activities exceptions – 30.62A.510

This change adds site investigative work necessary for land use application submittals, to be included to the list of activities with a low potential for significant impacts. This change would result in site investigative work being treated with greater flexibility with respect to impact mitigation.

#### Single family residential development exceptions – 30.62A.520

This section allows for a 4,000 square foot encroachment into buffers on lots constrained by critical areas and buffers where there are no reasonable alternatives outside of the buffers. Several changes to this section are proposed, including; allowing increased flexibility for necessary utilities and roads to go through buffers, and limitations on the maximum allowed area of any additions to existing structures located in a buffer - 2,000 sq.ft. or ½ of the existing structure, whichever is less.

#### Farm Conservation Plans and best management practices – 30.62A.640

The recommended new section, 30.62A.640, has provisions to help ensure implementation and monitoring of farm conservation plans.

#### Chapter 30.62B SCC - Geologically Hazardous Areas

##### Geotechnical Report Requirements - 30.62B.140

The recommendation includes additional requirements for what must be included in a geotechnical report. This includes assessment and analysis of risks associated with geologic hazards, estimating landslide material run out, and other analysis.

##### Landslide Hazard Area Definition – 30.91L.040

The criteria that defines a landslide hazardous area in SCC 30.91L.040 are proposed to be expanded to include lands within a distance from the top of the slope equal to the height of a slope and within a distance from the toe of the slope equal to two times the height of the slope. These changes will provide additional protection to the public health and safety.

Amend 30.62B.340 to provide consistency with the new definition of landslide hazardous area. The change would not allow development in the landslide hazard area and provides a methodology to construct in the landslide hazardous area if there is no other alternative. The proposal also provides criteria for expansion of the landslide hazard area in order to protect public health and safety as determined through best available science provided by site conditions and a geotechnical report.

The proposal also adds a section that provides the authority and methodology for the department to provide for more stringent construction standards and to impose additional mitigation in order to reduce specific health and safety impacts.

##### Landslide Hazard Notification Requirements – New section SCC 30.62B.160(4).

This recommendation includes additional notice, disclosure, and covenant requirements for development activities or actions requiring a project permit or approval in a landslide hazard area. This does not include approvals for fences, retaining walls, deflection walls, or landslide mitigation. The notice would require a covenant that runs with the land and states that the

property is in a landslide hazardous area, describes the risks, the owner accepts the responsibility for the risks, inform future purchasers, and provide indemnification.

*Some of the Planning Commissioners expressed concern that the notification requirements may affect insurance rates and the ability to transfer property and requested that PDS consult with builders and realtors to explore alternate options.*

#### Chapter 30.62C SCC - Critical Aquifer Recharge Areas

The requirements for a hydrologic report are listed under 30.62C.140. The changes include a requirement under 30.62C.140(3)(f)(iii) for an analysis or discussion of the effects on recharge potential on the site, including the permeability and transmissivity of the site geology and soils.

The proposal would add a section in the Hydrogeologic Report for projects where groundwater withdrawal is proposed to address groundwater quantity. Applicants would need to provide a letter from an approved water purveyor showing connection to the water supply, or indicate the source of the water supply within the report.

The proposal would add the contaminate nitrite to 30.62C.140, new subsection (o) which already obligates the evaluation of nitrate pollution. The US EPA considers both nitrate and nitrite pollution as potential contaminate sources which can lead to the infant/toddler condition of methemoglobinemia, or blue baby syndrome.

#### Chapter 30.64 SCC - Groundwater Protection

When the county adopted Amended Ordinance No. 06-061, chapter 30.62C was adopted and intended to replace chapter 30.64. Pursuant to Chapter 353, Laws of 2007, the county had to retain existing chapter 30.64 and apply it only to agricultural activities on land designated as rural land or agricultural resource land. This requirement expired in July 2013.

When the critical area regulations adopted by Amended Ordinance No. 06-061 were applied to agricultural activities in 2013, chapter 30.62C was applied to agricultural activities and chapter 30.64 should have been repealed. This proposal will repeal the outdated critical area regulations codified in chapter 30.64 and delete all cross references to chapter 30.64.

#### Consistency and Housekeeping Amendments

Consistency and housekeeping amendments to ensure consistency with the proposed amendments to CAR are scattered in various other chapters of Title 30 SCC. The majority of the amendments are references to the wetland typing methodology and addressing code citations for consistency.

## **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission closed public testimony and concluded deliberations at the hearing on February 24, 2015. Prior to the public hearing, PDS staff provided the Planning Commission with several staff reports, background information and findings of fact supporting the Planning Commission's recommendation.

The Planning Commission makes the following recommendation to the County Council after considering information presented during the public hearing process:

**Motion** was made by Commissioner Strandy and seconded by Commissioner McLaughlin that the Planning Commission recommends approval of the Critical Area Regulations as presented with the exception that they would not result in an increase to wetland buffers.

### **Vote on the motion:**

8 in favor (Ash, Fowler, Kaufman, Hannam, McLaughlin, Stanford, Strandy, Taft)  
1 opposed (Palumbo)  
0 abstentions

In addition to the concerns voiced by various member of the Planning Commission regarding wetland classification and notification requirements for landslide hazard areas, several members recommended that mapping wildlife corridors should be a part of the critical areas update.

The above recommendations are made after due consideration of information submitted by county staff and the public at the hearing. The County Council is asked to schedule a public hearing and consider the Planning Commission recommendations.

Respectfully submitted,

SNOHOMISH COUNTY PLANNING COMMISSION



Guy Palumbo, Chairman

cc: Snohomish County Council  
Clay White, Director, Planning and Development Services

### Attachments:

Minutes of the Planning Commission briefing on January 27, 2015  
Draft minutes of the Planning Commission deliberations on February 23, 2015  
Draft minutes of the Planning Commission deliberations on February 24, 2015  
Planning Commission Findings of Fact and Conclusions